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Smart Growth Through Tiny Homes: Incentivizing Freedom of Housing

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SMART GROWTH THROUGH TINY HOMES: INCENTIVIZING FREEDOM OF HOUSING

A. Robin Donnelly[†]

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I. ABSTRACT

Tiny Homes are an environmentally friendly housing option popping up across the United States. Tiny Homes have a minimal environmental footprint due to their small size and eco-friendly design. As such, Tiny Homes could address several of the Environmental Protection Agency's city development goals.

The Environmental Protection Agency ("EPA") has created a Smart Growth program that provides financial assistance to cities seeking to implement greener practices throughout city planning. Tiny Home Eco communities could become a popular Smart Growth development plan. Unfortunately, cities have not welcomed Tiny Homes, and this alternative green housing scheme has remained undeveloped.

This Comment is a proposal to expand the EPA's Smart Growth program to include pre-planned Tiny Home Eco communities. Currently, prospective

[†] I would like to thank Professor Cassado-Perez for her indispensable feedback regarding the environmental sections of this comment. I would also like to thank Lisa Alexander for her expertise on Tiny Homes.

Tiny Home owners lack the freedom to choose this environmentally-friendly housing option. This proposal seeks to incentivize cities to reform zoning regulations by providing public transportation to those implementing the proposed communities.

I. INTRODUCTION

The move to Tiny Homes and other forms of micro-housing is capturing America's attention through television shows, news articles, blog posts, and testimonials of those who have abandoned traditional expansive floor plans to live in homes under 400 square feet.¹ This progressive movement is evidence of a new vision of the American Dream across the United States.² Micro-housing is a term that describes "any residential structure, foundation built or on wheels, with full utilities (electric, water, and sewer) and living facilities (kitchen, bed, bath, and commode) designed for full time occupancy that accommodates occupants at less than 300 square feet per person."³ Micro-housing encompasses a variety of housing options. One type of micro-housing is the accessory dwelling unit.⁴ These units are commonly built behind a principal dwelling, co-occupying the property.⁵ Accessory dwelling units are sometimes referred to as in-law suites.⁶ Another type of micro-housing is the apartment micro-unit.⁷ Micro-units are an efficient way to increase density in urban areas.⁸ Tiny Homes are a type of micro-housing currently inundating popular culture.⁹ Tiny Homes usually range between 100–400 square feet¹⁰ and are built either on a foundation or on wheels.¹¹ Although this Comment will briefly explore different types of micro-housing, the majority of this Comment and proposal will focus on Tiny Homes.

1. *What Is The Tiny House Movement?*, TINY LIFE, <http://thetinylife.com/what-is-the-tiny-house-movement/> [https://perma.cc/WWP5-NEUE] (last visited Nov. 9, 2017).

2. Kathrine M. Vail, Note, *Saving the American Dream: The Legalization of the Tiny House Movement*, 54 U. LOUISVILLE L. REV. 357, 357 (2016).

3. *Microhousing: an overview*, MICRO SHOWCASE, <http://microshowcase.com/microdwell/microhousing-an-overview/> [https://perma.cc/7V2D-FMDE] (last visited Nov. 9, 2017).

4. *Id.*

5. *Id.*

6. *Id.*

7. Constantine Valhouli, *Could micro-apartments solve the affordable housing crisis*, LA TIMES (Oct. 24, 2016, 4:00 AM), <http://www.latimes.com/opinion/livable-city/la-oe-valhouli-microunits-affordable-housing-20161024-snap-story.html> [https://perma.cc/PY52-RB58].

8. *Id.*

9. *6 Big Reasons the Tiny House Movement is on the Rise*, KELLER WILLIAMS REALTY: SAN ANTONIO, <https://www.kwsanantonio.com/news/6-big-reasons-the-tiny-house-movement-is-on-the-rise/> [https://perma.cc/86KV-HBX5] (last visited Nov. 9, 2017).

10. *What Is The Tiny House Movement?*, *supra* note 1.

11. *Microhousing: an overview*, *supra* note 3.

Several motivating factors influence individuals' decisions to transition into Tiny Homes.¹² One motivation is the ability to become a homeowner.¹³ In the last fifty years, homeownership has declined to where almost 40% of households rent instead of own property.¹⁴ This percentage does not include the increased number of young adults who live with their parents instead of renting elsewhere or purchasing their own home.¹⁵ Meanwhile, almost 90% of renters express the desire to become homeowners.¹⁶ Homeownership has become less attainable as housing prices rise.¹⁷ In 2015, the average price for a single-family home was around \$360,000.¹⁸ Yet building a Tiny Home can cost one-eighteenth the cost of purchasing the average home.¹⁹ As such, Tiny Homes are an alluring alternative to traditional housing because they make owning a home an attainable goal.²⁰

Another reason individuals are switching to Tiny Homes is a desire to simplify. Most notably, the millennial generation embraces the concept of minimalism, marked by anti-consumerism and downsized living.²¹ This is a striking shift from the traditional American Dream.²² Tiny Homes offer the allure of owning minimal square footage (and fewer belongings) instead of owning an expansive traditional home.²³ For years, "McMansions" became the heart of the American Dream.²⁴ According to the United States Census Bureau for 2015, new single-

12. *What Is The Tiny House Movement?*, *supra* note 1.

13. Alaina Tweddle, *The Cost of Renting vs. Buying a Tiny Home*, GO BANKING-RATES (July 19, 2016), <https://www.gobankingrates.com/mortgage-rates/cost-renting-vs-buying-tiny-home/> [https://perma.cc/TN8G-KHTD].

14. Lawrence Yun, *Why Homeownership Matters*, FORBES: BUSINESS, (Aug. 12, 2016, 1:09 PM) <http://www.forbes.com/sites/lawrenceyun/2016/08/12/why-homeownership-matters/#1fc967ee3c20> [https://perma.cc/89FB-EYU2].

15. *Id.*

16. *See id.*

17. *See* Dionne Searcey, *More Americans Are Renting, and Paying More, as Homeownership Falls*, N.Y. TIMES (June 24, 2015), <https://www.nytimes.com/2015/06/24/business/economy/more-americans-are-renting-and-paying-more-as-homeownership-falls.html>.

18. *See Highlights of Annual 2015 Characteristics of New Housing*, U.S. Census Bureau, <https://www.census.gov/construction/chars/highlights.html> [https://perma.cc/LKZ4-5ZR5] (last visited Nov. 9, 2016).

19. *See id.*; *see also How Much Does a Tiny House Cost*, TINY HOUSE BLOG, <http://tinyhouseblog.com/tiny-house/how-much-does-a-tiny-house-cost/> [https://perma.cc/HB5T-HZWK] (last visited Nov. 9, 2017).

20. *Tiny House Cost vs. Traditional House Cost*, TINY HOUSE LISTINGS (Apr. 19, 2011) <https://tinyhouselistings.com/tiny-house-cost-vs-traditional-house-cost/> [https://perma.cc/RP66-95Z2].

21. David Graham, *Meet Generation M – minimalists trying to live better by cutting clutter, consumption*, TORONTO STAR (Dec. 4, 2012), https://www.thestar.com/life/2012/12/04/meet_generation_m_minimalists_trying_to_live_better_by_cutting_clutter_consumption.html [https://perma.cc/2K7J-SMYP].

22. Tamara Mullen, Note, *The McMansion: Architecture's Role In Facilitating Urban Sprawl And Farmland Loss*, 12 DRAKE J. AGRIC. L. 255, 255 (2007).

23. *What Is The Tiny House Movement?*, *supra* note 1.

24. Mullen, *supra* note 22, at 255–56.

family homes averaged 2,500 square feet,²⁵ while 4,800 square feet became the most desirable size.²⁶ Since the 1970s, the average size for housing has increased over 60%, while the average household size has decreased over 90%.²⁷ American homeowners have an average of one thousand square feet per person.²⁸ These growing averages conflict with minimalist demands.²⁹ In response to the excessive American trend, many individuals and minimalists attempt to transition to Tiny Homes to address the financial and time constraints of traditional home ownership.³⁰ Unfortunately, zoning laws often require excessive square footage, preventing this generation from free choice in the housing market.³¹

The demand for additional square footage in traditional housing correlates with increased energy demands as well.³² Growing environmental concerns are the leading motivation for most individuals pursuing Tiny Homes as a greener alternative to traditional home ownership.³³ Following the Industrial Revolution, individuals' choices have affected the environment more significantly than before.³⁴ Carbon dioxide levels should naturally remain between "180 to 300 parts per million (ppm). Today's levels are around 400 ppm—up 40 percent since the Industrial Revolution began in the mid-18th century, when the level was 280 ppm."³⁵ Human activity plays a significant role in the earth's changing climate.³⁶ Although the changes may not be felt on a daily basis, they affect the health and safety of communities worldwide. In the last fifty years, droughts have become more severe, causing water shortages, crop losses,³⁷ and even ecosystem changes such as

25. See *Highlights of Annual 2015 Characteristics of New Housing*, U.S. Census Bureau, <https://www.census.gov/construction/chars/highlights.html> [https://perma.cc/LKZ4-5ZR5] (last visited Nov. 9, 2016).

26. Mullen, *supra* note 22, at 259.

27. Andrew Morrison, *Tiny House Movement*, YouTube (Dec. 1, 2014), <https://www.youtube.com/watch?v=wYhtKE-oEEM>.

28. *Id.*

29. Graham, *supra* note 21.

30. *What Is The Tiny House Movement?*, *supra* note 1.

31. Mullen, *supra* note 22, at 262.

32. *Residential Energy Consumption Survey (RECS): The impact of increasing home size on energy demand*, U.S. ENERGY INFO. ADMIN. (Apr. 19, 2012), <https://www.eia.gov/consumption/residential/reports/2009/square-footage.cfm> [https://perma.cc/GXW7-EL4Q].

33. *What Is The Tiny House Movement?*, *supra* note 1.

34. *Causes of Climate Change*, EPA, https://19january2017snapshot.epa.gov/climate-change-science/causes-climate-change_.html [https://perma.cc/Q72B-4NVE] (last updated Dec. 27, 2016).

35. *Id.*

36. Ilissa Ocko, *9 ways we know humans triggered climate change*, <https://www.edf.org/climate/9-ways-we-know-humans-triggered-climate-change> [https://perma.cc/3LQE-7P6W] (last visited Nov. 9, 2017).

37. *A Student's Guide to Global Climate Change: More Droughts*, EPA, <https://archive.epa.gov/climatechange/kids/impacts/signs/droughts.html> [https://perma.cc/2C37-XJTF] (last updated May 9, 2017).

coral bleaching.³⁸ While some regions experience droughts, displaced water causes catastrophic flooding in other regions, and high temperatures can negatively influence the health of people and livestock.³⁹ In order to combat the effects of climate change that are already occurring and estimated to worsen, individuals must reduce greenhouse gas emissions.⁴⁰ Many individuals seek Tiny Home ownership to address several of the leading causes of harmful emissions threatening the environment.

Among the highest contributors to the greenhouse gas effect are transportation, electricity, and residential emissions.⁴¹ The Environmental Protection Agency (“EPA”), along with other concerned organizations and administrations, has disseminated information and issued initiatives to assist individuals working towards reducing humans’ carbon footprint.

The EPA seeks to change the way American citizens and communities develop and consume energy. The organization has created programs dedicated to researching the environmental consequences of current urban development strategies. Through research and reporting, the EPA partners with states and organizations and provides indispensable funding to accomplish the developmental changes necessary to achieve positive environmental outcomes.⁴²

One initiative the EPA launched is the Smart Growth program.⁴³ This program focuses on communities as a whole and provides components for growth, including “compact building design . . . [,] walkable neighborhoods . . . [,] attractive communities with a strong sense of place . . . [,] farmlands . . . [,] transportation . . . [,] and cost effective[ness].”⁴⁴ Through the program, communities can apply for grants

38. *A Student’s Guide to Global Climate Change: Plants, Animals, and Ecosystems*, EPA, <https://archive.epa.gov/climatechange/kids/impacts/effects/ecosystems.html> [<https://perma.cc/59N9-TM8V>] (last updated May 9, 2017).

39. *A Student’s Guide to Global Climate Change: See the Impacts*, EPA, <https://archive.epa.gov/climatechange/kids/impacts/index.html> [<https://perma.cc/JWA8-VRN3>] (last updated May 9, 2017).

40. *A Student’s Guide to Global Climate Change: Be Part of the Solution!*, EPA, <https://archive.epa.gov/climatechange/kids/solutions/index.html> [<https://perma.cc/CC85-BAVT>] (last updated May 9, 2017).

41. *Sources of Greenhouse Gas Emissions*, EPA, https://19january2017snapshot.epa.gov/ghgemissions/sources-greenhouse-gas-emissions_.html [<https://perma.cc/5YDV-7Q5Z>] (last updated Oct. 6, 2016).

42. *Smart Growth Partnerships*, EPA, https://19january2017snapshot.epa.gov/smartgrowth/smart-growth-partnerships_.html [<https://perma.cc/6UR9-G6CL>] (last updated Apr. 21, 2016).

43. *About Smart Growth*, EPA, https://19january2017snapshot.epa.gov/smart-growth/about-smart-growth_.html [<https://perma.cc/F7VR-B8C7>] (last updated July 19, 2016).

44. *See id.*

to assist in implementing initiatives that advance Smart Growth goals.⁴⁵

This Comment is a proposal to expand the EPA's Smart Growth program in order to incentivize cities to change their zoning laws to accommodate Tiny Home Eco Communities, instead of enforcing ever-growing housing square-footage requirements. Under this proposal, a Tiny Home Eco Community would be set up similarly to traditional community subdivisions, only with added environmental and agricultural covenants. A community would be located in the suburbs, right outside of the business center; standard size lots, usually around a quarter of an acre,⁴⁶ would be available for purchase; the residents would be limited to building Tiny Homes on their lots and utilizing their remaining land for gardening; community amenities, such as an apiary⁴⁷ and location for a farmers market, would be available; and a Homeowners Association would be established to enforce the community's green covenants.⁴⁸ All of these aspects will be developed further throughout this Comment.

Because these communities would satisfy the EPA's current Smart Growth development goals listed above (striving for cost effective, attractive, compact, walkable, farmland communities with a strong sense of place), under this proposal the EPA would expand its Smart Growth program to systematically grant public transportation funding to cities that rezone for and develop the proposed Tiny Home Eco Communities. The public transportation funding would be used to connect the new Eco Communities with the city's urban center, thereby satisfying the EPA's Smart Growth goals of increasing public transportation and reducing small urban sprawl.⁴⁹

Unlike the current process cities must navigate to apply for Smart Growth funding, this Comment encourages the EPA to issue nationwide permits and grants through its Smart Growth program to cities establishing Tiny Home Eco Communities. These permits and grants

45. *EPA Smart Growth Grants and Other Funding*, EPA, https://19january2017snapshot.epa.gov/smartgrowth/epa-smart-growth-grants-and-other-funding_.html [https://perma.cc/NG3E-2GL2] (last updated Aug. 11, 2016).

46. *See generally* Tom Kelly, *New home lot size: State average lowest in nation*, MYNORTHWEST (Mar. 4, 2016, 5:52 AM), <http://mynorthwest.com/8547/new-home-lot-size-state-average-lowest-in-nation/> [https://perma.cc/EQA5-WVRR].

47. Apiaries are where bee keepers house bees for their honey.

48. *See generally* 5 *Important Components Of Subdivision Development*, DEV. TIPS, <http://dev-tips.com/5-important-components-subdivision-development/> [https://perma.cc/Y5CH-2WCK] (last visited Nov. 9, 2017).

49. *See About Smart Growth*, *supra* note 42. Despite this proposal seemingly creating urban sprawl due to the creation of low-density subdivisions, the implementation of public transit connecting the subdivision to the city's business center combats one of the main environmental concerns associated with urban sprawl. The additional environmental benefits produced by these Tiny Home Eco Communities also outweigh many of the other concerns regarding urban sprawl. *See generally* Del Peterson, *Transit and Small Urban Sprawl*, UPPER GREAT PLAINS TRANSP. INST. (Oct. 2009), <http://www.ugpti.org/pubs/pdf/DP217.pdf> [https://perma.cc/L5S9-PLZ7].

serve as an almost automatic approval of applications for public transportation funding that meet an established criteria, in this case the proposed Tiny Home Eco Community development plan. As a comparison, the Clean Water Act designates a similar type of permit for the Corps of Engineers to use in implementing environmental regulations.⁵⁰ These nationwide permits are useful because they reduce the administrative burden of individually reviewing applications for similar activities by pre-authorizing activities within a category.⁵¹ Here, because the EPA would have pre-drawn requirements for the approved Tiny Home Eco Communities under the program, cities developing communities within that category would not have to fill out an extensive application that would then need to be individually reviewed. Instead, administrators could pre-authorize the community development in a manner consistent with nationwide permits and release the public transportation funds to qualifying cities. Due to efficiency, the EPA already recommends increasing permits of this type to ensure environmental compliance.⁵²

Therefore, this proposal incentivizes cities to provide citizens with the concept of “freedom of housing.” Most cities’ current zoning laws prohibit Tiny Homes within city limits. These laws eliminate the current alternative housing preference that promotes homeownership, minimalist living, and a healthier environment. Under this proposal, however, citizens would have the freedom to pursue Tiny Home ownership as cities choose to accept funding for public transportation and rezone to accommodate these Smart Growth Eco Communities.

To better understand the proposal, this Comment will begin by exploring current environmental concerns, initiatives the EPA has promulgated, and the way Tiny Home Eco Communities can address these concerns. Next, this Comment will discuss the current lack of housing freedom and the barriers preventing Tiny Homes from achieving the EPA initiatives. This Comment will conclude by fleshing out the remaining details of the proposal and explaining how cities can easily implement hybrid districts for Tiny Home Eco Communities to receive Smart Growth funding for public transportation to incentivize development.

50. Issuance and Reissuance of Nationwide Permits, 82 Fed. Reg. 1860 (Jan. 6, 2017).

51. *Id.*

52. *See Next Generation Compliance*, EPA, https://19january2017snapshot.epa.gov/compliance/next-generation-compliance_.html [https://perma.cc/44DR-989L] (last updated Dec. 23, 2016).

II. ENVIRONMENTAL CONCERNS AND INITIATIVES

The EPA analyzed greenhouse gas emissions and discovered the main contributors affecting global climate change.⁵³ Tiny Home Eco Communities could reduce the environmental harms caused by leading pollutants such as emissions from transportation, electricity production, and residential waste and water practices.⁵⁴ This Section will cover each of these greenhouse gas contributors and the way the Tiny Home Eco Communities present an attractive development solution that would satisfy the EPA's Smart Growth goals.

A. *Reducing Harmful Transportation Emissions*

Transportation is the leading cause of the greenhouse gasses altering the earth's climate.⁵⁵ Transportation accounts for nearly 30% of total emissions polluting the atmosphere, with passenger vehicles accounting for half of that amount, followed by vehicles used to transport goods.⁵⁶ Emissions from these sources have increased, and the EPA suggests public transportation as one method for reducing these harmful emissions.⁵⁷ Public transportation also contributes to health by offering a safer commuting option that is shown to reduce stress, increase activity, and reduce air pollutants.⁵⁸ An increasing number of passengers are turning to public transit where available.⁵⁹ Not only is public transportation "estimated to reduce CO2 emissions by 37 million metric tons annually," but taking public transit also saves households an "average of \$6,251 every year," and saves the United States "more than 11 million gallons of gasoline per day."⁶⁰ Public transportation could become available nationwide under this proposal based on the proposed funding incentive. Cities would receive Smart Growth funding to develop public transportation connecting the cities' new Tiny Home Eco Communities with the cities' urban centers. This would satisfy a Smart Growth development goal by reducing harmful transportation emissions from passenger vehicles.

53. *Sources of Greenhouse Gas Emissions*, EPA, <https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions> [<https://perma.cc/H3DG-RS7R>] (last updated Apr. 14, 2017).

54. *Id.*

55. *Sources of Greenhouse Gas Emissions*, EPA, https://19january2017snapshot.epa.gov/ghgemissions/sources-greenhouse-gas-emissions_.html [<https://perma.cc/URU9-JPPD>] (last updated Oct. 6, 2016).

56. *Id.*

57. *Id.*

58. *6 Health Benefits Of Public Transportation*, TRANSLOC (June 25, 2013), <http://transloc.com/6-health-benefits-of-public-transportation/> [<https://perma.cc/ABF6-KV2K>].

59. *Public Transportation Reduces Greenhouse Gases and Conserves Energy*, AM. PUB. TRANSP. ASS'N 1, 4 (2008), https://www.apta.com/resources/reportsandpublications/documents/greenhouse_brochure.pdf [<https://perma.cc/63JX-7MHU>].

60. *Id.* at 3–6.

In addition to the environmental benefits of public transportation, this proposal would incentivize cities to develop the Eco Communities because public transportation benefits the local economy. Planning scholars at the University of California at Berkeley found that public transportation delivers hidden economic benefits to cities, resulting in an average economic benefit of \$45 million per year.⁶¹ This benefit is achieved through a stabilized and increased workforce. Not only will those owning Tiny Homes be able to live and work in metropolitan areas to contribute to the local economy, but public transportation may increase the workforce in other subdivisions around the city as well. The Berkeley study mentioned above found that “[e]very time a metro area added about 4 seats to rails and buses per 1,000 residents, the central city ended up with 320 more employees per square mile—an increase of 19 percent.”⁶² Public transportation also creates a sense of community, which is a vital factor in a sustainable city development⁶³ and a component of Smart Growth development.⁶⁴

The environmental and economic benefits of public transit do not entice cities in theory alone. In fact, local governments across the United States have benefitted from Smart Growth partnerships for public transportation. For example, California received grants to assist in the development of affordable housing near public transportation and other amenities within walking and biking distance.⁶⁵ The goal is to reduce greenhouse gas emissions by 80% in the area by 2050.⁶⁶ As California constructs several high-speed railways throughout the state, Smart Growth is working together with the state to ensure they can continue to sustain growth and expansion.⁶⁷ Additionally, the EPA

61. Eric Jaffe, *Public Transit Is Worth Way More to a City Than You Might Think*, CITYLAB (Aug. 14, 2013), <http://www.citylab.com/work/2013/08/public-transit-worth-way-more-city-you-think/6532/> [<https://perma.cc/KYH7-QDXV>].

62. *Id.*

63. See *Streets as Places: How Transportation Can Create a Sense of Community*, PROJECT FOR PUBLIC SPACES, <https://www.pps.org/reference/streets-as-places-how-transportation-can-create-a-sense-of-community/> [<https://perma.cc/L422-MHYN>] (last visited Nov. 9, 2017); see also *The 2004 Egan Review into sustainable communities identified social and cultural factors as one of the seven key factors that make a place sustainable, through building a vibrant, harmonious and inclusive community*, FUTURE COMMUNITIES, <http://www.futurecommunities.net/socialdesign/191/sense-place-and-belonging> [<https://perma.cc/EB6X-945A>] (last visited Nov. 9, 2017).

64. See *About Smart Growth*, *supra* note 42.

65. *Regional, State, and Local Opportunities for Funding Smart Growth Projects*, EPA, <https://www.epa.gov/smartgrowth/regional-state-and-local-opportunities-funding-smart-growth-projects> [<https://perma.cc/GF4G-USDY>] (last updated June 15, 2017); *Affordable Housing and Sustainable Communities (AHSC) Program*, CAL. STRATEGIC GROWTH COUNCIL, <http://sgc.ca.gov/Grant-Programs/AHSC-Program.html> [<https://perma.cc/N5YJ-WPSJ>] (last visited Nov. 9, 2017).

66. *Affordable Housing and Sustainable Communities (AHSC) Program*, *supra* note 65.

67. *Making a Visible Difference in Communities: California*, EPA, <https://www.epa.gov/smartgrowth/making-visible-difference-communities-california#gilroy> [<https://perma.cc/BX24-PD9Z>] (last updated May 5, 2015).

through Smart Growth is working with local organizations in Alabama to create further public transportation to supplement the existing overrun public transit option.⁶⁸ Also, Smart Growth is helping Las Vegas, Nevada throughout its development scheme, making the city more sustainable by implementing additional public transportation.⁶⁹ The EPA encourages funding these growth strategies because, overall, “a combination of more compact development and investments in transit and other transportation options could reduce greenhouse gas emissions from transportation by 9 to 15 percent by 2050.”⁷⁰ Although these individual cities are making a difference in their local environments, widespread efforts are needed for overall environmental health, which is why incentivizing cities across the United States with simpler permits to obtain public transportation through Smart Growth is necessary.⁷¹ Although public transportation for commuting addresses one danger of urban sprawl, transportation of goods such as food, contributes to emissions polluting the atmosphere as well. So, the EPA has prioritized moving towards a more environmentally friendly approach to food consumption, specifically emphasizing locally grown foods and healthy living.⁷² Locally grown food is not standard in the United States. In fact, food throughout the “U.S. travels an average of 1,500 miles to get to your plate. All this shipping uses large amounts of natural resources (especially fossil fuels), contributes to pollution, and creates trash with extra packaging.”⁷³ The EPA recommends local farmers markets as a way to address this issue.⁷⁴ Some cities have implemented regulations for farmers markets to ensure that sellers actually grow the produce locally, without using the harm-

68. *Making a Visible Difference in Communities: Alabama*, EPA, <https://www.epa.gov/smartgrowth/making-visible-difference-communities-alabama#northbirmingham> [https://perma.cc/5JV9-SQAA] (last updated Apr. 19, 2017).

69. *Making a Visible Difference in Communities: Nevada*, EPA, <https://www.epa.gov/smartgrowth/making-visible-difference-communities-nevada#lasvegas> [https://perma.cc/ZL6Z-94AD] (last updated Apr. 19, 2017).

70. *Smart Growth and Climate Change*, EPA, https://19january2017snapshot.epa.gov/smartgrowth/smart-growth-and-climate-change_.html [https://perma.cc/4JHF-6F7U] (last updated Jan 13, 2017).

71. *See generally What Makes Environmental Compliance Important?*, MYNEWENVIRONMENTALCOMPLIANCEGUIDE, <https://mynewenvironmentalcomplianceguide.joomla.com/10-what-makes-environmental-compliance-important> [https://perma.cc/7XGU-6553] (last visited Nov. 9, 2017); *see Next Generation Compliance*, *supra* note 52; *see also* Dawn Withers, *Looking For A Home: How Micro-Housing Can Help California*, 6 GOLDEN GATE U. ENVTL. L.J. 125, 127 (2012).

72. *Local Foods, Local Places*, EPA, https://19january2017snapshot.epa.gov/smartgrowth/local-foods-local-places_.html [https://perma.cc/HY7P-JDYT] (last updated Jan. 6, 2017).

73. *10 Reasons to Support Farmers Markets*, CUESA, <http://www.cuesa.org/learn/10-reasons-support-farmers-markets> [https://perma.cc/K9AV-UXUN] (last visited Nov. 9, 2017).

74. *United States 2030 Food Loss and Waste Reduction Goal*, EPA, <https://www.epa.gov/sustainable-management-food/united-states-2030-food-loss-and-waste-reduction-goal> [https://perma.cc/6S3F-7LT5] (last updated Dec. 20, 2016).

ful pesticides buyers want to avoid.⁷⁵ Farmers markets necessarily involve the community.⁷⁶ As such, Eco Community farmers markets are the perfect solution for decreasing harmful emissions from the transportation of food.

Under this proposal, residents of the Tiny Home Eco Communities would participate in urban farming as a solution for growing local food. The current approach to producing food not only requires extensive transportation and emits harmful gases into the atmosphere, but also leaves over 33 million Americans hungry despite an abundance of food available.⁷⁷ The United States Department of Agriculture reported that food deserts exist across America where citizens lack access to fresh fruits and vegetables because of limited transportation and distant grocery stores.⁷⁸ Furthermore, the current industrial perspective on farmland and food production often ignores the importance of biodiversity and creates environmental and food security concerns.⁷⁹ Alternatively, small family gardens usually embrace a polycultural approach to growing food, nurturing multiple kinds of crops from individual property instead of a single mass-produced crop on an industrial farm.⁸⁰ Overall, these smaller gardens are arguably more productive and advantageous for feeding the population and promoting environmental health.⁸¹ The proposed Eco Communities may be a solution not only for environmental pollutants, but also for food security and health as these communities spread across the United States. However, widespread, collective efforts are necessary to experience the benefits of these smaller, Eco Community urban farms.⁸²

Non-profit organizations, individuals, or neighborhoods can start urban farms.⁸³ Currently, farmers in dense cities have developed urban farms by growing produce on dedicated park land, former demolition spots, rooftops,⁸⁴ patios, or vertically with buildings, utilizing

75. Katherine Martinko, *Do you REALLY know where your farmers' market produce comes from?* TREEHUGGER (Oct. 14, 2014), <http://www.treehugger.com/green-food/do-you-really-know-where-your-farmers-market-produce-comes.html> [https://perma.cc/YD53-YJLM].

76. *See id.*

77. Peter Burdon, *What is Good Land Use? From Rights to Relationship*, 34 MELBOURNE U. L.R. 708, 723 (2010), http://law.unimelb.edu.au/__data/assets/pdf_file/0020/1703531/34_3_2.pdf [https://perma.cc/D3SL-66WX].

78. *A Look Inside Food Deserts*, CDC, <https://www.cdc.gov/features/FoodDeserts/index.html> [https://perma.cc/SB69-XXPP] (last updated Aug. 21, 2017).

79. Burdon, *supra* note 77, at 709.

80. *Id.* at 725.

81. *Id.* at 725–26.

82. *Id.* at 726.

83. *What Is Urban Farming*, GREENSGROW, <http://www.greensgrow.org/urban-farm/what-is-urban-farming/> [https://perma.cc/XJW2-3HRH] (last visited Nov. 9, 2017).

84. *Id.*

previously unused space.⁸⁵ These farms have several benefits and “can add greenery to cities, reducing harmful runoff, increasing shading, and countering the unpleasant heat island effect.”⁸⁶ In Chicago, an organization took over a broken cement lot and now produces 25,000 pounds of vegetables and herbs there annually.⁸⁷ A hotel in New York City has a rooftop garden and apiary⁸⁸ where bees pollinate the surrounding community, and the hotel uses the produced honey in their kitchen.⁸⁹ Boston’s local government amended the zoning code to allow for farmers markets operating on rooftops and vacant lots that utilize bees, chickens, and similar urban gardens.⁹⁰ Collectively, these urban farms are helping transform cities into greener, more sustainable communities.⁹¹ Unfortunately, only one-third of these urban farms are successful because property disputes arise over previously vacant lots, and cities decline to renew leases to community gardeners because the need for additional housing eventually outweighs the concern for local, sustainable food.⁹² Under this proposal, however, Tiny Home owners would cultivate the available land on their own housing lot traditionally covered by an expansive floor plan. On average, a single-family housing lot is .2 acres.⁹³ All of the food necessary to meet one’s needs can be grown on as little as .1 acres of land.⁹⁴ Tiny Home owners in the proposed Eco Communities would participate in urban farming and contribute to a farmers market run by the community homeowners association.⁹⁵ As such, these communities could be an effective solution to harmful emissions from food transportation without the instability of public property leases for urban gardens.

85. *National Geographic: Urban Farming Is Growing a Green Future*, CITY FARMER NEWS, <http://www.cityfarmer.info/2012/04/23/national-geographic-urban-farming-is-growing-a-green-future/> [<https://perma.cc/D54Q-FB6E>] (last visited Nov. 9, 2017).

86. *Id.*

87. *Id.* at 4.

88. *Id.* at 1.

89. *Id.*

90. Trish Popovitch, *10 American Cities Lead the Way With Urban Agriculture Ordinances*, SEEDSTOCK (May 27, 2014), <http://seedstock.com/2014/05/27/10-american-cities-lead-the-way-with-urban-agriculture-ordinances/> [<https://perma.cc/Y7WS-XHBK>].

91. *See generally id.*

92. Dorothy A. Borrelli, *Filling the Void: Applying a Place-Based Ethic to Community Gardens*, 9 VT. J. ENVTL. L. 271, 274 & 282–86 (2008).

93. *Average Lot Size in USA*, DIMENSIONSINFO, <http://www.dimensionsinfo.com/average-lot-size-in-usa/> [<https://perma.cc/EED5-BFBE>] (last updated June 26, 2014).

94. Dawn Gifford, *How Much Land Do You Really Need To Be Self Sufficient?*, SMALL FOOTPRINT FAMILY, <https://www.smallfootprintfamily.com/how-much-land-is-needed-to-be-self-sufficient> [<https://perma.cc/RT82-PMLD>] (last visited Nov. 10, 2017).

95. *Id.* One example where this structure has been implemented (absent Tiny Homes) is the Ngozi Eco Village. *Ngozi Eco Village Natural & Organic Farmers’ Market*, AGMAP, <http://agmap.psu.edu/businesses/index.cfm?fid=4674> [<https://perma.cc/CSX5-QA3W>] (last visited Nov. 10, 2017).

This proposal directly reduces harmful emissions from both commuter transportation and food delivery transportation. The United States must collectively commit to better land use decisions for housing developments and food production, with conscious planning regarding transportation.⁹⁶ As covered in this Section, providing cities with public transportation is an effective incentive for cities to re-zone due to the environmental and economic benefits of public transit. As these re-zoned Tiny Home Eco Communities spread across United States' municipalities partnering with Smart Growth, a stable workforce of homeowners would enjoy public transit, reducing harmful commuter emissions and reducing harmful delivery emissions by participating in urban gardening and farmers markets.

B. *Reducing Harmful Electricity Emissions*

Residential electricity emissions are the leading cause of harmful pollution within electricity production, which is the next major environmental contaminant after transportation.⁹⁷ The EPA recommends increasing energy efficiency, energy conservation, and renewable energy sources to mitigate the environmental consequences of traditional residential energy emissions.⁹⁸ Tiny Homes satisfy all of these recommendations. The EPA recognizes that an “[e]ffective response to complex environmental problems requires understanding of the natural and built environment, awareness of environmental problems and their origins (including those in urban areas), and the skills to solve these problems.”⁹⁹ Although most people in the United States are aware of global warming, less than half believe that human activity is the cause of the global phenomenon.¹⁰⁰ Of those who recognize the way human activity results in global warming, few understand which human activities contribute most to the problem.¹⁰¹ Every household has a unique carbon footprint, contributing to the collective global greenhouse gas effect.¹⁰² The EPA offers an online feature where individuals can calculate their household carbon footprint by entering data about their home, utilities, and driving habits.¹⁰³ Knowing how

96. See Withers, *supra* note 71 at 127.

97. *Sources of Greenhouse Gas Emissions*, *supra* note 55.

98. *Id.*

99. *National Environmental Education Act*, EPA, <https://www.epa.gov/education/national-environmental-education-act> [<https://perma.cc/8YH7-U9LA>] (last updated Sept. 6, 2016).

100. Brett W. Pelham, *Awareness, Opinions About Global Warming Vary Worldwide*, GALLUP NEWS (Apr. 22, 2009), <http://www.gallup.com/poll/117772/awareness-opinions-global-warming-vary-worldwide.aspx> [<https://perma.cc/6W5R-QQ88>].

101. John D. Sutter, *What you don't know about America and climate change*, CNN (Aug. 7, 2015), <http://www.cnn.com/interactive/2015/08/opinions/climate-change-quiz/> [<https://perma.cc/L8AY-J4K7>].

102. *Carbon Footprint Calculator*, EPA, <https://www3.epa.gov/carbon-footprint-calculator/> [<https://perma.cc/8KVX-NRRR>] (last updated July 14, 2016).

103. *Id.*

specific activities combine and become an overall carbon footprint allows individuals to evaluate their energy consumption habits and find ways to reduce their carbon footprint from residential emissions.¹⁰⁴

One way the EPA encourages homeowners to decrease their carbon footprint is through changing energy consumption habits.¹⁰⁵ Decreasing energy consumption can be achieved by increasing efficiency with the products and space homeowners already need or have. For example, homeowners can replace traditional light bulbs with those that consume at least 70% less energy, as well as insulate their homes to decrease heating and cooling loss.¹⁰⁶ Furthermore, heating and cooling less space conserves energy. Nevertheless, smaller homes—such as Tiny Homes—will inevitably consume less energy than larger homes even when the larger homes are using energy efficient consumption methods.¹⁰⁷ The EPA also encourages water management practices to reduce residential electricity emissions.¹⁰⁸ Efficient use of drinking water and wastewater can decrease the burden on municipalities' water plants, correlating to a decrease in polluting energy use.¹⁰⁹ One efficient water management practice the EPA promotes is rainwater harvesting.¹¹⁰ Eco Communities often mandate rainwater collection, which residents then use to irrigate their lawns and plants, consequently decreasing the burden on city infrastructure.¹¹¹ Rezoning subdivisions across the United States to accommodate Tiny Home Eco Communities would allow homeowners to automatically reduce harmful residential energy emissions due to the size of their new homes and their water management practices.¹¹²

Another way the EPA encourages homeowners to reduce their carbon footprint is by switching to clean energy for consumption needs.¹¹³ In 2009, single-family homes consumed “8 quadrillion Btu of

104. *How big is your carbon footprint?*, I2SEA, <https://web.stanford.edu/group/inquiry2insight/cgi-bin/i2sea-r2a/i2s.php?page=calculate#> [https://perma.cc/XP52-S2MQ] (last visited Nov. 10, 2017).

105. *Reduce the Environmental Impact of Your Energy Use*, EPA, <https://www.epa.gov/energy/reduce-environmental-impact-your-energy-use> [https://perma.cc/3VT3-DDJG] (last updated Jan. 24, 2017).

106. *Id.*

107. Withers, *supra* note 71, at 141.

108. *Sources of Greenhouse Gas Emissions*, *supra* note 55.

109. *Id.*

110. *Rainwater Harvesting: Conservation, Credit, Codes, and Cost Literature Review and Studies*, EPA, <https://www.epa.gov/npdes/rainwater-harvesting-conservation-credit-codes-and-cost-literature-review-and-case-studies> [https://perma.cc/D2ZL-GK2Y] (last updated Nov. 16, 2015).

111. *A Sustainable Emerging EcoVillage*, AVALON ORGANIC GARDENS & ECOVILLAGE, <http://avalongardens.org/ECovillage> [https://perma.cc/H455-PYD4] (last visited Nov. 10, 2017).

112. Judith Lavoie, *Tiny homes draw big interest; Garden suites, recently approved in the city, offer density, affordability*, TIMES COLONIST, March 17, 2012, at A4.

113. *Sources of Greenhouse Gas Emissions*, *supra* note 55.

energy for heating and cooling applications.”¹¹⁴ Most of this energy was from non-renewable sources.¹¹⁵ Meanwhile, “[e]very hour the sun beams onto Earth more than enough energy to satisfy global energy needs for an entire year.”¹¹⁶ Currently, solar energy is increasing in popularity and demand.¹¹⁷ Unlike traditional energy sources, utilizing renewable, clean energy sources—such as solar energy—helps reduce the harmful effects of greenhouse gases on the environment.¹¹⁸ Some solar energy plants’ “carbon footprint per unit of energy produc[ed] is 95% lower than that of fossil fuel power plants.”¹¹⁹ Decreasing humans’ carbon footprint by switching to renewable energy sources can “reduce premature mortality and lost workdays, and it reduces overall healthcare costs” by improving air and water quality and thereby promoting public wellness.¹²⁰ In addition to reducing harmful greenhouse gases and the corresponding effects on global climate, relying on solar energy provides benefits such as “greater energy security . . . [and] stronger economic growth.”¹²¹ The EPA not only encourages increased energy efficiency and decreased energy consumption, but also a transition to renewable sources such as solar energy.¹²² Although renewable energy sources are increasing, last year renewable energy sources accounted for only 10% of American energy consumption.¹²³ Switching to solar energy for a Tiny Home costs one-tenth of the price of switching to solar energy for the average sized traditional home and is therefore a more affordable option for complying with this EPA initiative.

114. *RHC for Singly-Family Homes*, EPA, <https://www.epa.gov/rhc/rhc-single-family-homes> [<https://perma.cc/9XNR-CFVZ>] (last updated Mar. 13, 2017).

115. *The end of fossil fuels*, ECOTRICITY, <https://www.ecotricity.co.uk/our-green-energy/energy-independence/the-end-of-fossil-fuels> [<https://perma.cc/67Q2-7TW8>] (last visited Nov. 10, 2017).

116. *Solar Energy*, NATIONAL GEOGRAPHIC, <http://environment.nationalgeographic.com/environment/global-warming/solar-power-profile/> [<https://perma.cc/T34D-NM2B>] (last visited Nov. 10, 2016).

117. *Top 6 Things You Didn't Know About Solar Energy*, U.S. DEP'T OF ENERGY (June 6, 2016), <https://www.energy.gov/articles/top-6-things-you-didnt-know-about-solar-energy> [<https://perma.cc/X4KX-B2AX>].

118. *Power your home with clean energy*, SOLARCITY, <http://www.solarcity.com/residential/benefits-of-solar-energy> [<https://perma.cc/A8EG-BX33>] (last visited Nov. 10, 2017).

119. *Id.*

120. *Benefits of Renewable Energy Use*, UNION OF CONCERNED SCIENTISTS, http://www.ucsusa.org/clean-energy/renewable-energy/public-benefits-of-renewable-power#.WHvnnv_Poxls [<https://perma.cc/B47A-2A9Q>] (last updated Apr. 8, 2013).

121. *Why Solar Energy?*, COST OF SOLAR, <http://costofsolar.com/why-solar-energy/> [<https://perma.cc/FWN5-LUVX>] (last visited Nov. 10, 2017).

122. *RHC for Single-Family Homes*, *supra* note 114.

123. *Frequently Asked Questions: How much of U.S. energy consumption and electricity generation comes from renewable energy sources?*, U.S. ENERGY INFO. ADMIN., <http://www.eia.gov/tools/faqs/faq.cfm?id=92&t=4> [<https://perma.cc/T4NQ-4TYT>] (last updated May 10, 2017).

Most of the energy Americans currently consume stems from fossil fuels, a finite and depleting source.¹²⁴ Despite efforts encouraging individuals to reduce environmental harm by improving energy consumption habits and utilizing energy efficient methods for new buildings and homes,¹²⁵ one of the most significant environmental encumbrances in the United States is the development of single-family homes.¹²⁶ However, Tiny Homes are an emerging alternative to traditional housing that offer an attractive and environmentally friendly lifestyle from construction to maintenance. Whereas building a traditional home requires depleting forests of enough lumber to fill seven logging trucks, lumber to build a Tiny Home would fill only half of a logging truck.¹²⁷ Once built, Tiny Homes have a miniscule carbon footprint in comparison to traditional housing. The energy use for lighting, heating, and cooling a traditional home emits an average of 28,000 pounds of pollution per year, while Tiny Homes emit an average of 2,000 pounds of pollution per year.¹²⁸ This significant difference is not only due to increased energy efficiency and decreased consumption based on the small size of Tiny Homes, but also because Tiny Homes can use solar panels for their energy consumption.¹²⁹ Under this proposal, the Eco Communities would have covenants governing the Tiny Homes and allowing homeowners to use only sustainable energy sources.¹³⁰

C. *Reducing Harmful Residential Waste Emissions*

Whereas switching to cleaner energy sources and consuming less energy is an initial conscious decision towards protecting the environment, smaller daily choices, in the aggregate, can significantly contribute to reducing human's carbon footprint. A final cause of harmful greenhouse gas emissions discussed in this Comment is residential emissions caused by organic waste practices.¹³¹ The EPA encourages

124. *The End of Fossil Fuels*, *supra* note 115.

125. *Reduce the Environmental Impact of Your Energy Use*, *supra* note 105; *see also* ENERGY STAR, <https://www.energystar.gov/> [<https://perma.cc/9TPV-KBR3>] (last visited Nov. 10, 2017).

126. Ksenija Janjic, *The Environmental Impact of Single-Family Homes*, EPA BLOG (Mar. 7, 2014), <https://blog.epa.gov/blog/2014/03/the-environmental-impact-of-single-family-homes/> [<https://perma.cc/WRA8-J9YR>].

127. Gabriella, *Why Tiny Houses Can Save The Earth Infographic*, TINYHOUSE BUILD.COM (Oct. 26, 2014), <https://tinyhousebuild.com/tiny-houses-infographic/> [<https://perma.cc/E92X-6BZ5>].

128. *Id.*

129. Ben Cooper, *Can You Run A Tiny House With Solar Power?*, TINY HOUSE TALK (June 14, 2012), <http://tinyhousetalk.com/tiny-house-solar-power/#8O9PuMI161HzJWfY.99> [<https://perma.cc/WKJ4-MBMX>].

130. *Ecological Covenants*, DANCING RABBIT ECOVILLAGE, <http://www.dancingrabbit.org/about-dancing-rabbit-ecovillage/vision/ecological-covenants/> [<https://perma.cc/T449-VPEE>] (last visited Nov. 10, 2017).

131. *Sources of Greenhouse Gas Emissions*, *supra* note 55.

homeowners to reduce these harmful residential emissions by decreasing the amount of food waste sent to landfills.¹³²

The EPA aims to change the way individuals and businesses consume and dispose of food, decreasing the amount of food waste that reaches landfills by 50 percent by 2030.¹³³ On average, each individual sends over two hundred pounds of food waste to landfills each year, which significantly contributes to current methane emissions affecting climate change in the United States.¹³⁴ The EPA recommends that individuals take proactive steps to reduce this impact by composting their organic waste.¹³⁵ Composting not only benefits soil and decreases the need for chemical use, but also decreases the harmful effects of methane emissions, thereby helping curb climate change.¹³⁶

Composting is a common practice in Eco Communities.¹³⁷ Under this proposal, Tiny Home owners within the Eco Community would reduce food waste normally sent to landfills, and thus decrease residential greenhouse gas emissions by utilizing composting. This proposal also improves the nutritional value of produce, potentially enhancing the health of consumers. Composting enhances soil quality, yielding more nourishing produce.¹³⁸ Furthermore, urban development threatens local farms, pushing them farther into rural areas, increasing the distance food must travel before consumption.¹³⁹ This leads to decreased dietary value since “a 5-10 day transportation and storage lag between production and consumption leads to losses of 30-50% in some nutritional constituents.”¹⁴⁰ Increasing urban agriculture through Tiny Home Eco Communities would allow residents and locals to purchase fresh produce from farmers markets, reaping the full nutritional benefits available, while homeowners also decrease residential emissions associated with food waste due to their communities’ composting practices.

132. *Id.*

133. *United States 2030 Food Loss and Waste Reduction Goal*, *supra* note 74.

134. *Id.*

135. *Composting At Home*, EPA, <https://www.epa.gov/recycle/composting-home> [<https://perma.cc/HJK5-4SV2>] (last updated Mar. 20, 2017).

136. *Id.*

137. *See A Sustainable Emerging EcoVillage*, *supra* note 111; *see also Kailash Ecovillage*, KAILASH ECOVILLAGE, <http://www.kailashecovillage.org/> [<https://perma.cc/BV5W-JN5J>] (last visited Nov. 10, 2017); *see also Ecological Covenants*, *supra* note 130.

138. *Why Compost: Benefits of Composting*, HOME COMPOSTING MADE EASY!, <http://www.homecompostingmadeeasy.com/compostbenefits.html> [<https://perma.cc/ELV7-2SD5>] (last visited Nov. 10, 2017).

139. Anne C. Bellows, Katherine Brown & Jac Smit, *Health Benefits of Urban Agriculture*, DEMOCRACY COLLABORATIVE (2004), <http://community-wealth.org/content/health-benefits-urban-agriculture> [<https://perma.cc/QPF4-6RAD>].

140. *Id.*

Thus, this proposal helps reduce residential greenhouse gas emissions by decreasing food waste through composting practices and decreasing energy use from water plants through rainwater harvesting.

Therefore, the proposal to incentivize municipalities to develop Tiny Home Eco Communities by partnering with the EPA's Smart Growth program would address several of the EPA's current environmental concerns and initiatives. The proposed communities, although not increasing urban density, would decrease transportation emissions through available public transit and local food production. Additionally, Tiny Home owners consume less energy than traditional homeowners, automatically reducing their carbon footprint. Furthermore, Eco Community covenants require homeowners to participate in rainwater harvesting and use renewable energy sources, such as solar power, complying with additional EPA initiatives. Finally, Tiny Home Eco Communities would have lower residential emissions than traditional housing subdivisions due to food waste composting requirements. Because of the extensive environmental objectives these communities would achieve, this proposal aligns with the EPA's Smart Growth goals, which should encourage them to expand the program and issue nationwide permits and grants, simplifying the process for providing public transportation to cities committed to re-zoning for and developing these proposed Tiny Home Eco Community subdivisions.

III. THE TINY HOME LEGAL BATTLE: BARRIERS TO TINY HOME OWNERSHIP

Recognizing the environmental benefits of Tiny Homes, many individuals have embarked on the transition away from traditional housing only to be unwelcomed by cities and without a place to root their environmentally friendly home.¹⁴¹ Most cities have enacted zoning ordinances prohibiting stand-alone Tiny Homes and micro-homes as accessory dwelling units, co-occupying land with a traditional home.¹⁴² This means that Tiny Home owners cannot purchase property upon which to build their Tiny Home or place their Tiny Home within a neighborhood on an existing traditional home's backyard. Therefore, Tiny Home owners lack freedom of housing. In fact, Tiny Home owners attempting to live within city limits face heavy fines and constant relocation while navigating complex and varied zoning regulations.¹⁴³ Consequently, individuals seeking to live and work near the city are unable to pursue Tiny Home ownership, and often must decide be-

141. Vail, *supra* note 2, at 358; Rebecca Beitsch, *Tiny houses are trendy, minimalist and often illegal*, PBS: NEWS HOUR (July 6, 2016, 9:58 AM), <http://www.pbs.org/news/hour/rundown/tiny-houses-are-trendy-minimalist-and-often-illegal/> [<https://perma.cc/A8DW-SCW7>].

142. Vail, *supra* note 2, at 362.

143. *Id.* at 365.

tween owning traditional excessive square footage or renting multi-family dwelling units. Meanwhile, the environmental concerns that Tiny Homes could ameliorate remain a growing concern.

A. *Complex Laws for Tiny Homes*

Despite rising popularity of Tiny Homes, current zoning laws often prohibit Tiny Home owners from forming roots in urban areas. Tiny Home owners and builders have been forced to find ways around traditional zoning laws in order to pursue this lifestyle.

Most new Tiny Home owners find themselves in a position where they must constantly stay one step ahead of the law.¹⁴⁴ For example, some municipalities consider a person setting up a Tiny Home camping, in which case that individual would need to relocate within a specified number of days, varying by municipality.¹⁴⁵ Therefore, to obey the law, Tiny Home owners must frequently relocate to comply with municipal camping regulations, instead of residing at a location. In other municipalities, a Tiny Home may be considered a trailer, so instead of following the city's regulations regarding camping, Tiny Home owners would need to follow the regulations specifying how long a trailer can be parked at a location and how long an individual can live in a trailer.¹⁴⁶ Navigating and trying to stay ahead of city ordinances is a challenging task for Tiny Home owners. Authors have responded by publishing books to help Tiny Home owners beat the system while pursuing this lifestyle.¹⁴⁷

In addition, builders have also found "loophole[s] in city regulations."¹⁴⁸ For example, in Seattle builders caused a citywide controversy by staying one unit below the threshold amount of units allowed in attempt to avoid public review of their apartment micro-units.¹⁴⁹ By taking advantage of the current micro-unit zoning laws, or lack thereof, the builders cleverly avoided certain other building permits and tax consequences.¹⁵⁰ Other cities, in an attempt to prevent builders from utilizing such loopholes, have responded by implementing regulations for apartment micro-units.¹⁵¹

Although some cities have taken steps to address these issues, the status quo among most cities continues to be a paramount barrier for

144. See Ryan Mitchell, *Top 5 Biggest Barriers To The Tiny Home Movement*, TINY LIFE (July 24, 2012), <http://thetinylife.com/top-5-biggest-barriers-to-the-tiny-house-movement> [https://perma.cc/G23Z-HPP5].

145. See Ryan Mitchell, *Tiny House Building Codes*, TINY LIFE (July 18, 2014), <http://thetinylife.com/tiny-house-building-codes/> [https://perma.cc/QPC3-FEUX].

146. Vail, *supra* note 2, at 370.

147. *Id.* at 164.

148. Patrick Carter, Note, *Micro-Housing in Seattle: A Case for Community Participation in Novel Land Use Decisions*, 39 SEATTLE U. L. REV. 1031, 1033 (2016).

149. *Id.*

150. *Id.* at 1034.

151. *Id.* at 1036.

individuals pursuing the Tiny Home lifestyle. Those avoiding the law and pursuing loopholes to evade regulation and inspection spurn concern that they will be living in unsafe environments.¹⁵² Still, the majority of cities have failed to implement new ordinances to accommodate and regulate this modern housing trend.

B. *Apprehensions Preventing Tiny Home Accommodation*

Despite twenty years of people trying to achieve legal acceptance for Tiny Homes, Tiny Home owners continue struggling to gain legal and social acceptance within most municipalities.¹⁵³ Public misperception could cause this legal delay, instigating apprehension of developing Tiny Home subdivisions. One potential apprehension and barrier to Tiny Home development is loss of city revenue.¹⁵⁴ The square footage of a home is closely correlated with property value; those who increase their square footage tend to have a resulting increase in property value.¹⁵⁵ Cities determine property taxes based on property value. Therefore, cities naturally have an incentive to implement minimum requirements for housing lot size and square footage that is likely to increase property value and thus the city's revenue. Initially, a housing development dedicated to Tiny Homes under 400 square feet likely appears to create a detriment to the city's overall goal of providing for the community's wellbeing.¹⁵⁶

The possibility of lost revenue should not prevent cities from developing Tiny Home Eco Communities because size alone does not determine property value. Property values are often influenced by the aesthetic of a community, which is one of the reasons homeowners choose to live in rule-bound communities, such as the proposed Eco Communities with enforced environmental covenants, that help reinforce the desired aesthetic that maintains property values.¹⁵⁷ Furthermore, these Eco Community subdivisions may require fewer municipal services than traditional subdivisions because Tiny Home owners usually do not have young age children requiring use of public

152. John Infranca, *Housing Changing Households: Regulatory Challenges for Micro-Units and Accessory Dwelling Units*, 25 STAN. L. & POL'Y REV. 53, 54 (2014).

153. Movoto Real Estate, *How Did the Tiny House Movement Get Started?*, TINY HOUSE TALK (Nov. 10, 2012), <http://tinyhousetalk.com/how-did-tiny-house-move-ment-start/> [<https://perma.cc/N6YM-LUY7>].

154. Vail, *supra* note 2, at 377.

155. Amber Keefer, *How to Estimate My Property Taxes Based on Square Footage*, NEST, <http://budgeting.thenest.com/estimate-property-taxes-based-square-footage-32992.html> [<https://perma.cc/MV3E-6RBR>] (last visited Nov. 10, 2017).

156. See generally Vail, *supra* note 2, at 362.

157. Hannah Wiseman, *Public Communities, Private Rules*, 98 GEO. L.J. 697, 699, 728 (2010).

schools;¹⁵⁸ they consume less water due to rainwater harvesting;¹⁵⁹ and they produce less waste due to composting practices.¹⁶⁰

An associated barrier preventing cities' development of Tiny Home Communities is the public perception that Tiny Home subdivisions would attract low-income residents and increase crime rates.¹⁶¹ However, Tiny Homes are often built and owned by middle-class homeowners.¹⁶² Homeowners often have to purchase the lot and build their Tiny Home without the help of bank loans, since banks usually will not extend loans to finance Tiny Homes due to the uncertain resale value of Tiny Homes.¹⁶³ This proposal likely accommodates middle-class homeowners as well because homeowners would need to purchase a lot within the Eco Community. These subdivision lots would be located near an urban area, where land is often more costly than rural areas, so this proposal is unlikely to cause an increase in lot size based on social economic status. Additionally, the aesthetic of a community greatly influences crime rates.¹⁶⁴ Eco Communities and urban agriculture communities have been proven to have either low crime rates or to decrease existing crime rates—in some areas by over 70% due to community involvement.¹⁶⁵ Therefore, concerns over crime rates should be easily overcome.

The final barrier is finding developers for the villages. Developers have more to gain by renting out Tiny Home cabins for a resort escape, rather than developing the lots to sell to Tiny Home owners.¹⁶⁶ Regardless, initiatives like Inclusionary Housing Programs overcome this barrier. Through these programs, municipalities can mandate that developers dedicate a certain percentage of their developments to low and middle-income housing.¹⁶⁷ Developers have challenged this program on multiple occasions in court, but recent courts have upheld the

158. See *How Did the Tiny House Movement Get Started?*, *supra* note 153.

159. See *Rainwater Harvesting: Conservation, Credit, Codes, and Cost Literature Review and Studies*, *supra* note 110.

160. See *Why Compost: Benefits of Composting*, *supra* note 138.

161. See generally Macy M., *Why Tiny Houses Aren't The Best Homeless Housing (IMO)*, MINIMOTIVES (July 22, 2014), <http://minimotives.com/2014/07/22/why-tiny-houses-arent-the-best-homeless-housing/> [<https://perma.cc/5NGZ-T9QN>].

162. *Id.*

163. Mitchell, *supra* note 145.

164. Wiseman, *supra* note 157, at 699.

165. *Impact: Hawthorne EcoVillage Brings New Life to North Minneapolis*, MHP (Oct. 2013) <http://www.mhponline.org/about/impact/78-2013-impact-spotlight/443-hawthorne-ecovillage> [<https://perma.cc/2HN5-ZUTM>]; Michaela Krauser, *The Urban Garden as Crime Fighter*, NEXT CITY (Aug. 22, 2012), <https://nextcity.org/daily/entry/the-urban-garden-as-crime-fighter> [<https://perma.cc/VJ2N-93NV>].

166. *Why Tiny House Communities Don't Exist*, TINY HOUSE TALK (Jan. 9, 2013), <http://tinyhousetalk.com/why-tiny-house-communities-dont-exist/> [<https://perma.cc/6SH9-B887>].

167. Cecily T. Talbert & Nadia L. Costa, *Inclusionary Housing Programs: Local Governments Respond to California's Housing Crisis*, 30 B.C. ENVTL. AFF. L. REV. 567, 572 (2003).

program, refusing to support exclusionary housing practices that discriminate against housing developments not serving the upper class.¹⁶⁸ In these situations, the developers must bear the financial burden.¹⁶⁹ Furthermore, despite opposition from some developers, other builders are already forming societies and businesses, eager to develop Tiny Homes.¹⁷⁰

Therefore, the apprehensions that have likely prevented cities from accommodating Tiny Home owners in the past would not present a major obstacle to this proposal, causing cities to forego the incentive of Smart Growth funding instead of developing the Eco Communities.

IV. ACHIEVING LEGAL STABILITY FOR TINY HOME OWNERSHIP

The Tiny House movement is primarily a grassroots effort by individuals and businesses willing to challenge zoning ordinances and work with city officials to enact new codes. The following Section will cover one of the foundational zoning cases establishing a standard for minimum square footage requirements and then discuss the application to modern situations forcing Tiny Home owners into unincorporated areas or a cycle of constant relocation.

A. *The Case of Berlin Tp. Establishing the Health and Welfare Zoning Standard*

Legal acceptance of the smaller, alternative lifestyle offered by Tiny Home living has been a slow and challenging battle that is still far from won.¹⁷¹ Although some progress has been made among a few municipalities to address housing needs for the homeless or to create high density urban infill, most cities' laws still leave Tiny Home owners navigating complex municipal ordinances and local zoning codes. One of the seminal cases deciding the validity of minimum square footage requirements was *Home Builders League of South Jersey, Inc. v. Berlin Tp.*¹⁷²

In *Berlin Tp.*, one group of potential micro-unit apartment builders and owners challenged the minimum square footage requirements in their locale before the current Tiny Home movement began.¹⁷³ The New Jersey Supreme Court recognized the plaintiffs' standing—even though they did not already have micro-units in violation of local laws—because they were “ready and willing to build” the micro-units in violation of the current minimum size requirements of the munici-

168. *Id.* at 572–78.

169. *Id.* at 573.

170. See *Designers And Builders*, SMALL HOUSE SOC'Y, <https://smallhousesociety.net/designers-builders/> [<https://perma.cc/9GXC-U4PY>] (last visited Nov. 10, 2017).

171. Vail, *supra* note 2, at 358.

172. *Id.* at 364.

173. *Home Builders League of S. Jersey, Inc. v. Twp. of Berlin*, 405 A.2d 381 (N.J. 1979).

palities.¹⁷⁴ The challenged zoning ordinance allowed for single-family homes to range between minimums of 1,100–1,600 square feet depending on the established zone area.¹⁷⁵ The court held that municipalities bear the burden of proving a valid purpose for establishing the zoning requirements.¹⁷⁶

Municipalities have broad discretion under their police powers but are also subject to due process requirements.¹⁷⁷ As such, the court in *Berlin Tp.* held that “[a]rbitrary or unreasonable zoning ordinances cannot stand.”¹⁷⁸ The zoning restrictions used as a means must be reasonably related to a justifiable end, which in the *Berlin Tp.* case was “promot[ing] public health, safety, morals or the general welfare.”¹⁷⁹

The municipality in *Berlin Tp.* argued that the zoning restrictions were not only a means to “promote public health and safety,” but were also a means of “maintain[ing] the nature of residential neighborhoods and conserv[ing] property values.”¹⁸⁰ The court held that the challenged zoning restrictions were not directly related to health and safety since the minimum square footage requirement did not correlate with the number of occupants within the residence.¹⁸¹ The court cited the American Public Health Association’s guideline establishing that one person could live in a residence of 150 square feet.¹⁸² The *Berlin Tp.* court also cited another court’s decision where “experts testified without exception that smaller houses do not because of their size cause a decrease in the value of adjacent dwellings or adversely affect the character of the neighborhood.”¹⁸³ Although the court held that maintaining the nature and value of neighborhoods is a valid zoning end, the court distinguished this purpose from the zoning end of economic segregation.¹⁸⁴ The builders and owners prevailed because the court did not find the municipalities had sustained their burden of proving that the ordinances were based on a legitimate end and not for the purpose of economic segregation.¹⁸⁵ Since the *Berlin Tp.* case, as the Tiny House movement has gained popularity, individuals and organizations have petitioned local governments to alter zoning laws,

174. *Id.* at 385.

175. *Id.* at 386.

176. *Id.* at 389.

177. *Id.* at 387.

178. *Id.*

179. *Id.*

180. *Id.* at 389.

181. *Id.* at 390.

182. *Id.*

183. *Id.* at 391.

184. *Id.* at 392.

185. *Id.*

often before attempting to find a constitutional challenge to prohibitory ordinances.¹⁸⁶

B. *Tiny Homes Settle in Unincorporated Areas*

Although cities do not typically allow Tiny Homes within city limits, despite the ruling in *Berlin Tp.*, some cities allow zoning for Tiny Homes in unincorporated areas outside of city limits. For example, in unincorporated areas around Tucson, Arizona, a builder prompted city officials to relax zoning restrictions to accommodate the constant inquiries for Tiny Home development.¹⁸⁷ Builders hope to capitalize on the progressive zoning modification by preparing and assembling Tiny Homes for prospective owners.¹⁸⁸ Tucson now allows homes under 400 square feet to occupy unincorporated areas, but continues to forbid Tiny Home owners to reside within Tucson city limits, except in some trailer parks, due to “safety and health concerns.”¹⁸⁹ Similarly, in Massachusetts, an individual petitioned the city of Nantucket to allow movable Tiny Homes as a solution to ever-moving buildings on the small island.¹⁹⁰ Mobile homes are currently prohibited on the island, even under the Tiny Home proposition.¹⁹¹ As of September 2016, “The state’s attorney general office is . . . expected to approve an amendment that would allow new residential construction under 500 square feet in several districts.”¹⁹²

C. *Tiny Homes as Recreational Vehicles*

Most Tiny Home owners who build their Tiny Homes on trailers register their homes as recreational vehicles.¹⁹³ Those who prefer a nomadic lifestyle are able to travel across the United States with their Tiny Home, staying at RV parks and campgrounds.¹⁹⁴ Unfortunately, this method is not an ideal solution as constant relocation increases

186. See generally Justin Leighty, *South Dakota City Lifts Campground Restrictions*, WOODALL’S CAMPGROUND MGMT. (Nov. 17, 2009), <http://www.woodallscm.com/tag/westwick-motel-and-campground/> [https://perma.cc/XAF8-GZZD].

187. Murphy Woodhouse & Gabriela Rico, *Tiny-home movement takes first steps in Tucson area*, ARIZONA DAILY STAR: TUCSON.COM (June 11, 2016), http://tucson.com/business/tucson/roomy-enough-tiny-home-movement-takes-first-steps-in-tucson/article_a623fbad-86c5-5e73-a010-cd41a0105955.html [https://perma.cc/3BA9-6B3V].

188. *Id.*

189. *Id.*

190. Ethan Genter, *Tiny homes may help big problem on Nantucket*, CAPE COD TIMES (Apr. 24, 2016), <http://www.capecodtimes.com/news/20160424/tiny-homes-may-help-big-problem-on-nantucket> [https://perma.cc/LCY2-FM76].

191. *Id.*

192. Emily Nonko, *Tiny house zoning regulations: What you need to know*, CURBED (Sept. 22, 2016, 11:30 AM), <http://www.curbed.com/2016/9/22/13002832/tiny-house-zoning-laws-regulations> [https://perma.cc/S7SB-K5DP].

193. *Guidelines for THOW*, TINY HOUSE CMTY., <https://tinyhousecommunity.com/guidelines.htm> (last visited Nov. 1, 2017).

194. *Places to Stay*, TINY HOUSE CMTY., <http://www.tinyhousecommunity.com/category/places-to-stay/> [https://perma.cc/VSM8-8XGV] (last visited Nov. 10, 2017).

transportation emissions. Furthermore, registration presents additional challenges for many individuals pursuing the Tiny Home lifestyle. First, the inspection and registration process was not designed for Tiny Homes on wheels—it was designed for traditional recreational vehicles or mobile homes.¹⁹⁵ As such, the professional association that inspects recreational vehicles will not inspect a Tiny Home on wheels, and owners must pursue inspection through organizations that cover alternative housing.¹⁹⁶

Second, owners must find an RV park or campground that allows Tiny Homes on wheels. Several parks still only permit traditional recreational vehicles, but the Tiny Home community compiles and updates lists of Tiny Home friendly locations to help owners find a place to stay.¹⁹⁷

Finally, recreational vehicles were designed for temporary living, so the zoning laws for several RV parks were also created to accommodate temporary living, not permanent residences.¹⁹⁸ Therefore, those choosing this Tiny Home living must frequently relocate because of the camping classification associated with recreational vehicles or remain in violation of local ordinances, hoping to continue unnoticed by code enforcers. Constant relocation increases transportation emissions and decreases the availability of a stable workforce.

In Sioux Falls, South Dakota, for example, the city began enforcing a thirty-day limit for camping, which would force RV owners who had been there longer than thirty days to pack up and move.¹⁹⁹ The ordinance, established for health and safety concerns, formed the basis to evict owners of clean condition, \$300,000 RVs from the park.²⁰⁰ Many of the Sioux Falls RV owners had traveling jobs keeping them in the area that usually lasted longer than the thirty-day limit.²⁰¹ Recognizing the impractical effect of the law, city officials worked to expedite the process in removing the thirty day restriction, which would allow the RV owners to remain at the park.²⁰²

Unlike Sioux Falls, most cities do not expedite zoning changes to accommodate Tiny Homes. In Garland, Texas, B.A. Norrgard, a paralegal for almost thirty years, decided to change her lifestyle and

195. See *Guidelines for THOW*, *supra* note 193.

196. *Id.*

197. See generally *Places to Stay*, *supra* note 194; Elainelw, *Tiny Houses are Gaining Acceptance by RV Parks!*, TINY HOUSE CMTY. (May 26, 2014), <http://www.tinyhousecommunity.com/tiny-houses-are-gaining-acceptance-by-rv-parks/> [<https://perma.cc/RFR2-RC3Y>].

198. *Guidelines for THOW*, *supra* note 193.

199. *Duane Spader Fears Sioux Falls Will Gain 'Anti-RV' Label*, RVBUS. (Nov. 2, 2009), <http://www.rvbusiness.com/tag/rv-park-zoning/> [<https://perma.cc/SE5W-LLP9>].

200. *Id.*

201. *Id.*

202. Leighty, *supra* note 186.

live in a Tiny Home.²⁰³ She also envisioned creating a Tiny Home community in the area.²⁰⁴ Since 2013, Norrgard has met with the mayor of Garland and created the Tiny Home community concept as a discussion topic for the city's development task force team.²⁰⁵ The goal is to flip an existing RV park into a Tiny Home park.²⁰⁶ This method would be easiest because an RV park is already zoned for smaller homes.²⁰⁷ By 2017, Norrgard can finally park her Tiny Home in an urban area visibly, not hiding from code enforcement.²⁰⁸

The idea of changing a preexisting RV park into a Tiny Home community is not unique to Norrgard. Lemon Cove Village, located between Los Angeles and San Francisco, California, transitioned from being an RV park to being a village for Tiny Homes.²⁰⁹ The village consists of fifty-five lots, a community pool, shared kitchen, restroom and shower facilities, and coin operated laundry machines.²¹⁰ Tiny Home owners pay monthly rent and separate electricity bills.²¹¹

In the years following the court's decision in *Berlin Tp.* striking down arbitrary minimum square footage requirements, cities have carefully drafted their zoning codes effectively maintaining the size restrictions. As such, Tiny Home owners have been forced to remain in unincorporated areas or continue traveling between RV parks to avoid eviction due to health and safety concerns. Tackling the challenge to make Tiny Homes legal nationwide has taken grassroots efforts.²¹² Individuals looking for their cities to modify existing laws to accommodate Tiny Homes have been encouraged to research the laws for their particular city; establish the specific requirements they hope to see enacted; draft a proposal to present to city officials; familiarize themselves with Robert's Rules of Order; go through with the presentation; and if the proposal is rejected, begin the entire process again.²¹³

203. B.A. Norrgard, *I am B.A. Norrgard And I'm Changing My Life Story*, A BED OVER MY HEAD, <http://www.abedovermyhead.com/> [<https://perma.cc/4ND4-SG29>] (last visited Nov. 10, 2017).

204. *Bringing The Tiny House Community Dream To Life*, A BED OVER MY HEAD, <https://web.archive.org/web/20170106092908/http://www.abedovermyhead.com/building-community> [<https://perma.cc/E6HC-4AJJ>] (last visited Nov. 10, 2017).

205. *Id.*

206. *Id.*

207. *Id.*

208. *Id.*

209. LEMON COVE VILLAGE: A TINY HOUSE CMTY., <http://www.lemoncovevillage.com> [<https://perma.cc/E9QD-G3PF>] (last visited Nov. 10, 2016).

210. *Id.*

211. *Id.*

212. Nonko, *supra* note 192.

213. *Id.*; Elainelw, *Ten Steps to Initiate Tiny House Friendly Zoning Changes*, AM. TINY HOUSE ASS'N (Dec. 14, 2015), <http://americantinyhouseassociation.org/how-to-initiate-tiny-house-friendly-zoning-changes/> [<https://perma.cc/5CVB-Y8KY>].

V. CREATING FREEDOM OF HOUSING FOR OTHER SOCIAL CONCERNS

Although a demographic of individuals desiring to live in Tiny Homes within suburban communities remains unmet, some cities have begun making progress toward freedom of housing, overcoming misperceptions of smaller, greener living and altering zoning laws to accommodate similar alternative housing options. So far, cities have made progress rezoning for reduced minimum square footage to address concerns such as urban sprawl and social issues like homelessness and natural disasters.

A. *Combating Urban Sprawl Through Micro-Units*

Major cities, prompted by environmental concerns, have rezoned to accommodate apartment micro-units to combat urban sprawl and increase density. Usually, young professionals are the demographic filling these micro-unit apartments.²¹⁴ A survey in California found that the majority of single individuals would prefer living alone to having a roommate, even if the costs were higher per square foot with less space.²¹⁵ Places like Austin, Denver, New York City, Seattle, and Washington D.C. have built micro-unit condominiums, providing dwellings smaller than studio apartments for individuals to rent.²¹⁶ It is argued that this change discourages young professionals working within the city from seeking employment elsewhere.²¹⁷ Despite progress rezoning to allow for micro-unit condominiums in some major cities and the benefits observed to the local economy and environment due to the movement, these changes do not affect Tiny Home owners, and concerns regarding density, over-population, and burdened city infrastructure are rising as these micro-unit apartments are developed.²¹⁸

B. *Addressing Homelessness Through Tiny Homes*

Social concerns have prompted municipal action in some cities to accommodate Tiny Homes. Upwards of 500,000 people in the United States suffer from homelessness.²¹⁹ Many states have established tent

214. Tim Iglesias, *The Promises and Pitfalls of Micro-Housing*, 37 ZONING & PLANNING L. REP. 1 (2014), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2536192 [<https://perma.cc/ZGD2-ZZM9>].

215. Infranca, *supra* note 152, at 59.

216. Iglesias, *supra* note 214, at 8.

217. Infranca, *supra* note 152, at 55, 62.

218. *Id.* at 66.

219. *The State of Homelessness in America 2015 Report*, NAT'L ALL. TO END HOMELESSNESS (Apr. 1, 2015), <http://www.endhomelessness.org/library/entry/the-state-of-homelessness-in-america-2015> [<https://perma.cc/YCK8-ZEKY>].

cities in order to support this population.²²⁰ Recently, municipalities are substituting traditional tent cities with Tiny Home villages.²²¹ Citizens of New York, Washington, Oregon, Texas, Wisconsin and other states have joined Occupy Housing movements, petitioning local governments to alter zoning codes to allow for villages similar to tent cities for the homeless, arguing that everyone has a human right to housing.²²² Additionally, San Jose, California is the first city in the state to pass legislation allowing for temporary suspension of ordinary zoning restrictions to establish Tiny Homes for the homeless.²²³ The city's streets have been home to around 4,000 residents due to zoning regulations posing prohibitions to creating roofs for the citizens to sleep beneath.²²⁴ Pursuant to the new bill, a city must "declare a 'shelter crisis'" first, and then the law can be enacted in a city, which will override usual housing standards.²²⁵ San Jose declared its shelter crisis at the end of 2015 and will effectuate the temporary solution from 2017 to 2022.²²⁶ The city has dedicated half an acre of land for insulated houses as small as 70 square feet for formerly homeless individuals to live in.²²⁷

While some municipalities have rezoned the minimum square footage required to accommodate these villages, other municipalities have allowed non-profit organizations to purchase property and erect Tiny Home villages to assist in combating homelessness.²²⁸ One example is the non-profit organization A Tiny Home for Good. This organization is located in downtown Syracuse, New York, a city filled with vacant lots.²²⁹ Over time, A Tiny Home for Good is transforming rundown lots already zoned to accommodate the new, beautiful, 300 square foot, single-resident homes for those who have experienced the struggle of homelessness.²³⁰ Residents pay rent on a sliding scale based on their income.²³¹ To end homelessness, the organization connects re-

220. See Alan Taylor, *America's Tent Cities for the Homeless*, ATLANTIC (Feb. 11, 2016), <http://www.theatlantic.com/photo/2016/02/americas-tent-cities-for-the-homeless/462450/> [https://perma.cc/GR67-FSBG].

221. Lisa T. Alexander, *Occupying the Constitutional Right to Housing*, 94 NEB. L. REV. 245, 285 (2015).

222. *Id.*

223. Elaine Iw, *San Jose Assembly Bill 2176 waives state building code for tiny houses for the homeless*, AM. TINY HOUSE ASS'N (Oct. 9, 2016), <http://americantinyhouseassociation.org/san-jose-assembly-bill-2176-waives-state-building-code-for-tiny-houses-for-the-homeless/> [https://perma.cc/8KBB-36HH].

224. *Id.*

225. *Id.*

226. *Id.*

227. *Id.*

228. Alexander, *supra* note 221, at 286–88.

229. See Andrew, *THG Blog: The Bellevue Corridor Project*, A TINY HOME FOR GOOD (Sept. 26, 2017), <http://www.atinyhomeforgood.org/blog/> [https://perma.cc/RUY2-HY2P].

230. *Id.*

231. *Id.*

sidents with personal professional experts who can help the residents become stable.²³² Recently, A Tiny Home for Good made homeless veterans the primary recipients of these homes.²³³

C. *Providing Disaster Relief Through Tiny Homes*

A final concern prompting municipal action is the occurrence of natural disasters. Tiny Homes are beneficial for adapting to the effects of climate change.²³⁴ The EPA recognizes that modular buildings, structures that can be easily moved and do not depend solely on external power, are ideal structures for adjusting to the needs of a community facing more severe storms or heat than in the past.²³⁵ Similarly, Tiny Homes have emerged as an attractive alternative to Federal Emergency Management Agency (“FEMA”) trailers for natural disaster relief.²³⁶ When disaster strikes, FEMA officials, like other Tiny Home owners and builders, have to navigate zoning ordinances before erecting shelters for those in need.²³⁷ The officials usually request temporary ordinances to override standing zoning codes.²³⁸ These proactive steps to adapt zoning law for Tiny Home accommodation, although existent, are limited in scope and not without challenges and timely procedures.

In conclusion, those individually pursuing the Tiny House movement have encountered numerous challenges attempting to navigate zoning laws that do not accommodate the small square footage of Tiny Homes. These challenges may be because of cities’ and the public’s misperceptions surrounding the movement. However, when addressing concerns such as urban sprawl, homelessness, and natural disasters, municipalities across the United States have altered existing zoning laws, creating smaller minimum square footage requirements. This proposal would encourage municipalities to respond to the environmental concerns that Tiny Home Eco Communities could address.

VI. EFFICIENT REZONING FOR TINY HOME ECO COMMUNITIES

Instead of discouraging a housing option that could address several of the EPA’s environmental concerns and initiatives by forcing individual homeowners and businesses to separately create and propose zoning accommodations for Tiny Homes, the EPA could encourage a

232. *See id.*

233. *Id.*

234. *See Smart Growth and Climate Change, supra* note 70.

235. *See generally id.*

236. *See About, MARIANNE CUSATO*, <http://www.marianneacusato.com/about2> [https://perma.cc/3FPE-DPVS] (last visited Nov. 10, 2017).

237. Liz Koh, *FEMA officials discuss permit issues with mobile housing units*, WAFB, <http://www.wafb.com/story/32944382/fema-officials-discuss-permit-issues-with-mobile-housing-units> [https://perma.cc/PL36-E8HX] (last updated Sept. 15, 2016).

238. *Id.*

simplified solution for cities to easily adopt through their Smart Growth program and public transportation funding incentive. This could be achieved through the creation of a pre-drawn Tiny Home Eco Community development plan that would expand the EPA's current Smart Growth program. The plan would allow municipalities to dedicate city land to be used for greener housing developments within the urban or suburban city limits. City authorities seeking to implement the new development plan could easily obtain Smart Growth funding through the EPA for public transit connecting the new housing development to the city itself using a pre-authorization process similar to nationwide permits. This plan necessarily involves several zoning features, combining traditional overlay districts and private covenants to create a hybrid, uniform plan.

Under this proposal, instead of forcing cities that desire to implement these new Tiny Home Ecovillages to rewrite their entire zoning code, cities can easily adopt a hybrid overlay zone that incorporates aspects of private covenants. Overlay districts are a versatile zoning tool that cities can implement to override existing codes in an area. Put simply:

Overlay Districts provide a means to incorporate various development regulations across a specified area. These districts are special zones that lie on top of existing zoning categories to supplement or supersede existing regulations. They usually provide a higher level of regulation than that required by the existing zoning classification, but they can also permit exceptions or require a less-restrictive guideline. In cases where conflicting standards are given by an overlay district and the underlying zoning category, those of the overlay district take priority. The boundaries of an overlay district may or may not coincide with the boundaries of the underlying zone, and an overlay district may contain parts of more than one existing zone.²³⁹

Originally, cities adopted overlay districts as a way to preserve historic areas.²⁴⁰ Their use has expanded, however, and overlay districts have been used for micro-homes as accessory dwelling units.²⁴¹ Before a city adopts an overlay district allowing accessory dwelling units in a neighborhood, each homeowner would have to individually request an exception to the zoning code for an accessory dwelling unit to co-occupy his or her backyard. However, once an overlay district is adopted, each homeowner could build according to the allowed speci-

239. *Planning Tools*, SUBREGIONAL PLANNING, http://subregional.h-gac.com/toolbox/Implementation_Resources/Overlay_District_Ordinances_Final.html [<https://perma.cc/Z9JH-PXLB>] (last visited Nov. 10, 2017).

240. Wiseman, *supra* note 157, at 715–16.

241. *Overlay Districts for ADUs*, AM. TINY HOUSE ASS'N, <http://americantinyhouseassociation.org/overlay-districts/> [<https://perma.cc/QU4S-ERVK>] (last visited Nov. 10, 2017).

fications without individually seeking an exemption.²⁴² Overlay districts typically apply to existing subdivisions, not new communities, however, and they usually lack effective enforcement of established rules.²⁴³ Therefore, an overlay district must be combined with private covenants to create a “hybrid zone.”²⁴⁴

Mere rezoning would also fail to create the proposed Tiny Home Eco Communities because “traditional zoning does not delve into nuanced aesthetic strictures.”²⁴⁵ So, developers often use private covenants as a way to control more nuanced behaviors within a neighborhood.²⁴⁶ These communities are more commonly known as suburban subdivisions.²⁴⁷ Developers use covenants for new neighborhoods to dictate the character and style of the community.²⁴⁸ Some restrictions govern whether property owners can build fences, how tall their grass can grow, and whether they can build additional structures on their property.²⁴⁹ Covenants for Eco Communities may include using only organic practices for gardening; using only sustainable, renewable energy sources while avoiding fossil fuel energy use; and using eco-friendly recycled lumber for construction.²⁵⁰ Homeowners Associations are usually appointed to enforce the nuanced rules within a housing development.²⁵¹ The covenant process is accomplished through the private sector, however, and is not traditionally used for public property.²⁵²

Aspects from covenants for new, privately-developed communities and features from overlay districts for existing communities are combined to create hybrid communities, or Urban Planned Unit Developments.²⁵³ Because individual municipalities will initiate implementing this proposal as opposed to individual private developers, hybrid communities provide the necessary platform since cities often lead this form of development.²⁵⁴ Usually, hybrid communities have been used within a city to create urban in-fill and density.²⁵⁵ Still, hybrid communities can be utilized for suburban subdivisions²⁵⁶ and mixed-use de-

242. *See id.*

243. *See generally* Wiseman, *supra* note 157, at 719–20.

244. *See id.* at 721.

245. *Id.* at 714.

246. *Id.* at 712.

247. *Id.* at 701.

248. *Id.*

249. *Id.* at 713.

250. *Ecological Covenants*, *supra* note 130.

251. Wiseman, *supra* note 157, at 720.

252. *Id.* at 701–02.

253. *Id.* at 703–04.

254. *Id.*

255. *Id.* at 721, 723.

256. Steve Kerch, *Planned Developments Unblock Housing Design*, CHICAGO TRIBUNE (June 8, 1985) http://articles.chicagotribune.com/1985-06-08/news/8502060416_1_pud-american-planning-association-mixed-use-projects [<https://perma.cc/BJ9L-ZKTX>].

velopments.²⁵⁷ Once the covenant rules and overlay characteristics have been approved, and the hybrid community has been built, private homeowners associations enforce maintenance of the new community.²⁵⁸

To date, cities have implemented various zoning approaches when adopting Ecovillages into their communities. Certain cities, such as Philadelphia, Pennsylvania, created an entirely new zoning code for urban agriculture.²⁵⁹ Other cities, like Cleveland, Ohio, implemented overlay districts.²⁶⁰ Still others such as Bloomington, Indiana, used Planned Unit Development, similar to the hybrid method for this proposal.²⁶¹ In Bloomington, developers established an Ecovillage built from natural construction materials and powered by renewable energy.²⁶² The developers worked closely with city officials to create nuanced rules for a sustainable community, including solar and water restrictions.²⁶³ Creating the Planned Urban Development, or hybrid district, ensured that the community rules would remain the same regardless of whether the founders moved, being replaced by new residents.²⁶⁴ Under this proposal, cities would start with a uniform master plan and then vote on nuances unique to their region to be enforced. Upon adoption of the Tiny Home Ecovillage, the city would submit the pre-authorized Smart Growth application to receive funds to construct public transportation connecting the new village to the main city.

VII. CONCLUSION

The EPA has identified human activities that emit harmful greenhouse gases, contributing to earth's changing climate. Among the leading causes of this global phenomenon are emissions from transportation, electricity production, and residential waste and water use practices. Meanwhile, the Tiny House movement is gaining popularity as individuals desire to simplify their lives and live more consciously of their carbon footprint. A nationwide development of Tiny Home

257. Wiseman, *supra* note 157, at 722.

258. *Id.* at 704.

259. Emma Fried-Cassorla, *A New Zoning Code, and a New Era for Urban Agriculture in Philly*, NEXT CITY (Dec. 7, 2012), <https://nextcity.org/daily/entry/a-new-zoning-code-and-a-new-era-for-urban-agriculture-in-philly> [<https://perma.cc/N2G5-7TRE>].

260. *City of Cleveland - Urban Agriculture Overlay District DRAFT*, CLEVELAND – CUYAHOGA CTY.: FOOD POLICY COAL., <http://cccfoodpolicy.org/document/city-cleveland-urban-agriculture-overlay-district-draft> [<https://perma.cc/6AC7-VNZZ>] (last visited Nov. 10, 2017).

261. *Zoning and Housing*, CMTY.ENTERPRISELAW.ORG, <http://communityenterprise-law.org/zoning-and-housing/> [<https://perma.cc/SM4M-72C2>] (last visited Nov. 10, 2017).

262. *Id.*

263. *Id.*

264. *Id.*

Ecovillages could achieve the EPA's initiatives by reducing (1) commuter transportation emissions through increased public transit; (2) shipping transportation emissions through increased locally grown produce; (3) harmful energy emissions by decreasing consumption and switching to renewable sources; and (4) harmful residential emissions through composting and rainwater harvesting practices. Despite these potential benefits, local zoning laws prevent Tiny Homes from being erected in urban areas. Therefore, this proposal incentivizes cities to adopt a hybrid district for Tiny Home Ecovillages by pre-authorizing Smart Growth funding for public transportation connecting the new Ecovillage subdivision to the city's business center. Although some municipalities have already rezoned to accommodate Tiny Homes and Ecovillages, this proposal is necessary to effect a widespread reduction in greenhouse gases and reap the associated environmental benefits.